

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 27910 of 2006(V)

OS.169/2005 of ADDL.M.C.,KOZHIKODE-II
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PETITIONERS:

- 1. M.HAREENDRAN, AGED 44 YEARS,
S/O.DAMODARAN NAIR, KOLAKKADATH CHALIL VEEDU,
CHEVAYOOR AMSOM DESOM, KOZHIKODE.**
- 2. VADAKKECHALIL SASEENDRAN,
S/O.CHANDRASEKHARAN NAIR, AGED 28 YEARS,
VENGERI AMSOM DESOM, KOZHIKODE.**

**BY ADV. SRI.M.P.SREEKRISHNAN
SMT.SHAHNA KARTHIKEYAN**

RESPONDENTS:

- 1. MANATHANATH KODAVACHALIL JANARDHANAN -
NAIR, S/O.DAMODARA KURUP, AGED 52,
CHEVAYOOR AMSOM DESOM, KOZHIKODE.**
- 2. MANATHANATH KODAVACHALIL MALATHI AMMA,
D/O.DAMODARA KURUP, AGED 49 YEARS,
CHEVAYOOR AMSOM DESOM, KOZHIKODE TALUK.**

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WPC.NO.27910/2006 V

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE PLAINT IN O.S.169/05 ON THE FILE OF MUNSIFF'S COURT, KOZHIKODE.**
- EXT.P2: COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONERS ON 3/01/2005 IN O.S.169/05.**
- EXT.P3: COPY OF THE AFFIDAVIT IN I.A.NO.159/05 FILED FOR ACCEPTING WRITTEN STATEMENT.**
- EXT.P4: COPY OF THE ORDER DTD. 25/09/06 IN I.A.NO.159/05 IN O.S.169/05.**

/TRUE COPY/

KSS

PIUS C. KURIAKOSE,J.

W.P.(C) No.27910 of 2006

Dated: 6th July, 2007

JUDGMENT

Heard Mr.M.P.Sreekrishnan, counsel for the petitioner and Mr.R.Bindu Sasthamangalam, counsel for the respondents.

2. The order impugned in this Writ Petition instituted by the defendants in a suit for damages is Ext.P4 under which the learned Munsiff became inclined to allow the petitioners application for reception of the written statement on condition that the entire plaint claim of Rs.10300/- is deposited within three weeks from the date of the order. It has been now settled by the judgment of the Supreme Court in **Kailash v. Nanhku** (2005 (2) KLT 623) that the court has got power to receive written statements even if they are filed beyond 90 days which is the outer limit prescribed as per the C.P.C. The imposition of the condition that the entire plaint claim should be deposited even for raising defence in the suit was not justified in the facts of this case. I set aside the impugned order and direct the court below to receive the written statement already filed by the petitioners, formulate issues and dispose of the suit in accordance with law. The court below will make every endeavour to dispose of

the suit at the earliest and at any rate the suit will be disposed of within four months of receiving copy of this judgment.

The Writ Petition is allowed as above. No costs.

srd

PIUS C.KURIAKOSE, JUDGE